

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA**

Frank Harmon Black and Southeast Investments, N.C., Inc.,
Plaintiffs,
v.
Financial Industry Regulatory Authority and Securities and Exchange Commission,
Defendants.

Case No. 3:23-cv-709-RJC-DCK

BRIEF IN SUPPORT OF JOINT MOTION TO CONTINUE STAY

Plaintiffs Frank Harmon Black and Southeast Investments, N.C., Inc., and Defendants Financial Industry Regulatory Authority, Inc. (“FINRA”) and Securities and Exchange Commission (“SEC”) jointly move the Court to continue the stay of proceedings in this Court until and including February 3, 2025, and to set a February 3, 2025 deadline for the parties to file a Joint Status Report. This Court’s January 19, 2024 and August 13, 2024 Orders previously stayed proceedings in this Court through October 30, 2024. *See* D.E. 39, 42.

Good cause exists to continue the stay of proceedings in this Court because Plaintiffs and FINRA have obtained a stay of the FINRA disciplinary proceeding against Plaintiffs—which Plaintiffs have sought to enjoin in this case—from FINRA’s National Adjudicatory Council through January 27, 2025. A stay of this case through February 3, 2025 is appropriate because that date is one week after the expiration of the current stay of the FINRA disciplinary proceeding and would allow the parties to update the Court on whether the National Adjudicatory Council has extended that stay when filing their next Joint Status Report.

In addition, Plaintiffs have filed a pending petition for review of the SEC’s order affirming in part and remanding the FINRA disciplinary proceeding. *See Black v. FINRA*, No. 23-2297 (4th Cir. Dec. 22, 2023). The parties have concluded briefing in connection with Plaintiffs’ petition

for review, and the Fourth Circuit has scheduled oral argument for December 10, 2024. Continuing the stay will conserve the parties' and the Court's resources, as the Fourth Circuit's decision on Plaintiffs' petition is likely to resolve many if not all of the constitutional questions raised by Plaintiffs in this case.

CONCLUSION

This Court should continue the stay of proceedings until and including February 3, 2025, and set a February 3, 2025, deadline for the parties to file a Joint Status Report.

Dated: October 30, 2024

Respectfully submitted,

/s/ Adam F. Griffin (with permission)

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